CHUA OW POW v. LEE FOONG & ANOR.

[O.C.J. (Hashim Yeop A. Sani J.) September 27, 1974]
[Raub — Civil Suit No. 27 of 1973]

Damages — Personal injuries — Permanent scar on face, deformed finger and ribs fracture — Whether justifiable to itemise injuries separately.

In this case liability was agreed at 50-50. The plaintiff suffered injuries which resulted in a permanent scar and a deformed left index finger and also had fractured ribs and bruises and lacerations.

Held: (1) in this case it was quite justifiable to itemise the injuries received by the plaintiff separately in the same accident. The classification of the injuries would help in guiding the court to arrive at a reasonable quantum;

(2) an award of $3,000 would be reasonable for the scar, $1,000 for the deformed left index finger and $5,000 for the fractured ribs. Having regard to all the injuries sustained by the plaintiff and the guide lines offered by the classifications, a reasonable award for general damages would be $10,000. On the basis of 50% liability the plaintiff's award would be $5,000/-.

Case referred to:-

(1) *Mahamad bin Mahamad Said* v. *Perianayagam & Anor.* [1972] 1 M.L.J. 67.

CIVIL SUIT.

K. L. Rekhraj for the plaintiff.

N. A. Marjoribanks for the defendants.

Hashim Yeop A. Sani J.: Parties had agreed on liability at 50-50. The court is asked only to quantify the general damages.

The injuries sustained by the plaintiff are set out in enclosure 2 of the Agreed Bundle (P1) and they are as follows: —

i) 1½" ragged laceration on left parietal region with 2" haematoma.
ii) 1½" deep laceration left forehead.
iii) ¼" just above left corner of mouth.
iv) 1½" deep laceration left chin.
v) Extensive bruising with abrasions anterior chest wall.
vi) Bruising left costal margin.
vii) Bruising left chest posteriorly.
viii) Linear superficial abrasion 10" left thigh.
ix) Deep laceration over proximal phalynx left index finger, almost circumferential with extension to 2nd. phalynx.
x) ¼" laceration over head of left middle metacarpal.
xi) Two ½" laceration left elbow.

Xrays taken revealed fractured ribs 2nd - 6th. on left side.

Apparently the lacerations described in items i), ii), iii) and iv), (two of which were deep lacerations), have resulted in a permanent scar running down on the left side of the plaintiff's face. The scar is quite noticeable and the plaintiff also complains (not supported by any other evidence) of itchiness along this scar. The injury described in item ix) has resulted in a somewhat deformed left index finger of the plaintiff.

This is a case where in my view it is quite justifiable to itemise the injuries received by the plaintiff separately in the same accident. I would classify the injuries of the plaintiff into the following: —

(1) Injuries described in items i), ii), iii), iv) and x) which have resulted in a permanent scar;

(2) The injury described in item ix) which has resulted in a deformed left index finger;

(3) Fractured ribs 2nd-6th on the left side; and

(4) The remaining items of bruises and lacerations.

All these injuries were sustained during the same accident and although item (4) would tend to overlap with the others the classification of the injuries as aforesaid would be useful for the purpose of guiding the court to arrive at a reasonable quantum. In *Mahamad bin Mahamad Said & Anor.* v. *Perianayagam & Anor.*[1] the Federal Court in its judgment on page 68 states as follows: —

"With respect we do not think that the learned judge should have taken compensation for each of the two injuries suffered by the plaintiff separately and then just have added them up at the end. The items are not separate heads of compensation. They are only aids at arriving at a fair and reasonable compensation. See *Fletcher* v. *Autocar and Transporters Ltd.* There is an element of overlapping when two or more injuries are suffered simultaneously."

The permanent scar although not a disfigurement would have serious consequences on the face of a young unmarried woman. But in this case the plaintiff was already 46 years old at the time of the accident and already married. For this reason what remains to be considered is, perhaps, the embarrassment caused by the scar. The length of the scar visible (right down the face) would be relevant. I would consider an award of $3,000 reasonable under this classification. I would consider $1,000 as reasonable under the 2nd classification, *i.e.* the deformed left index finger. On the fractured ribs 2nd-6th. on the left side, there are a number of authorities which do not give any standard figure. I would however consider $5,000 reasonable under this classification.

Thus, having regard to all the injuries sustained by the plaintiff and the guide-lines offered by the classifications as aforesaid I consider $10,000 as a reasonable award for general damages in this case. On the basis of 50% liability the plaintiff's award therefore amounts to $5,000. Interest at 6% per annum from date of filing of writ to date of satisfaction. Special Damages $50 agreed.

Order accordingly. Costs to plaintiff.

Order accordingly.

Solicitors: *K. L. Rekhraj & Co.; Lovelace & Hastings.*